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ADR

Attorneys for Plaintiff
 CISCO SYSTEMS INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CISCO SYSTEMS, INC.,

Plaintiff,

v.

TELECONFERENCE SYSTEMS, LLC, and
 MARGALLA COMMUNICATIONS INC.,

Defendants.

Case No.

C09 01550 PVT

COMPLAINT FOR DECLARATORY
JUDGMENT

JURY TRIAL DEMANDED

Plaintiff Cisco Systems, Inc. ("Cisco") by and through its attorneys, bring this action against Teleconference Systems, LLC ("TS") and Margalla Communications Inc. ("Margalla") (collectively "Defendants") and alleges as follows:

INTRODUCTION

Cisco brings this declaratory judgment action promptly to protect its innovative TelePresence product line from TS's unwarranted claims that those products infringe United States Patent No. 6,980,526 ("the '526 patent"). Specifically, TS has filed an action in the United States District Court for the District of Delaware, Civil Action No. 1:09-cv-00200-JBS ("TelePresence Customer Suit") alleging that eight different companies infringe the '526 patent, directly and indirectly, through their involvement with Cisco's TelePresence products. Several of these companies have sought indemnification from Cisco in relation to the TelePresence

1 Customer Suit. Accordingly, Cisco brings this action to free its customers, its product line, and
2 itself from this unwarranted allegation of infringement.

3 In its TelePresence Customer Suit, TS does not allege that it owns the '526 patent,
4 but instead merely claims to be an exclusive licensee. The patent is apparently owned by
5 Margalla, which is therefore included as a defendant as well.

6 **PARTIES**

7 1. Cisco is a corporation organized and existing under the laws of the State of
8 California. Cisco's principal place of business is at 170 West Tasman Drive, San Jose California
9 95134.

10 2. On information and belief, Teleconference Systems LLC is a company
11 organized and existing under the laws of Texas, identifying its principal place of business at 515
12 Congress Avenue, Suite 2300, Austin, TX 78701-3560. TS does not claim to own the '526
13 Patent, but purports to be an exclusive licensee of the patent with rights to enforce the '526 patent
14 and sue infringers.

15 3. On information and belief, TS is an agent and alter ego of Acacia Patent
16 Acquisition LLC and Acacia Research Corporation. According to Texas public records, the sole
17 member of Teleconference Systems LLC is Acacia Patent Acquisition LLC. Acacia Patent
18 Acquisition LLC is a company organized and existing under the laws of Delaware and having its
19 principal place of business at 600 Newport Center Drive, 7th Floor, Newport Beach, CA 92660.
20 Acacia Patent Acquisition LLC is itself a subsidiary of Acacia Research Corporation. Acacia
21 Research Corporation is a public company comprised of numerous operating subsidiaries that are
22 in the business of monetizing patents. Acacia Research Corporation is a company organized and
23 existing under the laws of Delaware and having its principal place of business at 500 Newport
24 Center Drive, 7th Floor, Newport Beach, CA, 92660.

25 4. On information and belief, Margalla is a company organized and existing
26 under the laws of California, having its principal place of business at 1339 Portola Road,
27 Woodside, CA 94062. On information and belief, Margalla is the named assignee of the '526
28 patent. On information and belief, Margalla purportedly licensed the '526 patent to TS for the

1 purpose of monetizing the patent, either through licensing or enforcement of the '526 patent or
2 both.

3 JURISDICTION

4 SUBJECT MATTER JURISDICTION

5 5. This Court has subject matter jurisdiction over Cisco's Declaratory
6 Judgment claims pursuant to 28 U.S.C. §§ 2201 and 2202.

7 6. Cisco is the worldwide leader in networking for the Internet. Cisco
8 hardware, software, and service offerings are used to create Internet solutions that allow
9 individuals, companies, and countries to increase productivity, improve customer satisfaction and
10 strengthen competitive advantage. Among these solutions is Cisco's TelePresence product line.
11 Cisco's TelePresence product line creates live, face-to-face meeting experiences over a network,
12 empowering remote users to interact and collaborate across the "virtual table."

13 7. On March 27, 2009, TS filed the TelePresence Customer Suit. In its
14 Complaint, TS alleges that it is the exclusive licensee of the '526 patent with rights to enforce the
15 '526 patent and sue infringers. TS further alleges that Proctor & Gamble Pharmaceuticals Inc.,
16 HSBC USA Inc., Baxter Healthcare Corporation, Applied Materials Inc., Wachovia Corporation,
17 Staples Inc., Cabela's Incorporated, and Enbridge Holdings (US) LLC, through their involvement
18 with Cisco's TelePresence products, infringe the '526 patent by making, using, importing,
19 offering for sale, and/or selling apparatuses and/or systems covered by one or more claims of the
20 '526 Patent. TS specifically includes direct, contributory and inducement infringement claims as
21 part of its Customer Suit and contends that the TelePresence product itself infringes. But TS did
22 not include Cisco as a defendant even though Cisco owns the TelePresence product line and
23 makes, uses and sells TelePresence products. In view of the fact that Cisco owns the product line,
24 the TelePresence Customer Suit has triggered indemnity requests by Cisco's customers. A true
25 and correct copy of TS's Complaint in the TelePresence Customer Suit is attached hereto as
26 Exhibit A.

27 8. Cisco denies that the '526 patent is infringed through the manufacture, sale,
28 offer for sale, importation or use of any product in the Cisco TelePresence product line by Cisco

1 or its customers. Cisco further contends that the '526 patent is invalid. Under all the
 2 circumstances, TS's infringement allegations threaten actual and imminent injury to Cisco that
 3 can be redressed by judicial relief and that injury is of sufficient immediacy and reality to warrant
 4 the issuance of a declaratory judgment. Such injury includes, among other things, uncertainty as
 5 to whether the manufacture, use and sale of TelePresence products is free from infringement
 6 claims based on the '526 patent, the injury to Cisco's efforts to market and sell TelePresence
 7 products resulting from the TelePresence Customer Suit and the threat that other customer's will
 8 be sued, and the legal obligations flowing from Cisco's indemnity commitments to its customers.
 9 Absent a declaration of noninfringement and/or invalidity, Defendants will wrongfully assert the
 10 '526 patent against Cisco's TelePresence products, and will thereby cause Cisco irreparable
 11 injury and damage. Thus, an actual and justiciable controversy exists between Cisco and
 12 Defendants as to the '526 patent.

13 **PERSONAL JURISDICTION**

14 9. Upon information and belief, Defendants are subject to general and specific
 15 personal jurisdiction in this judicial district based upon their purposeful, systematic, and
 16 continuous contacts with California, including those relating to this case, including the following.

17 10. On information and belief, Margalla is a company organized and existing
 18 under the laws of California and having its principal place of business in this judicial district.
 19 Margalla purposefully, systematically and continuously directs activities in California and this
 20 judicial district, including by basing its business and consulting services in this judicial district
 21 and by soliciting clients in this judicial district through its website.

22 11. On information and belief, TS purports to have obtained an exclusive
 23 license to the '526 patent with rights to enforce the '526 patent and sue infringers from the
 24 assignee, Margalla, a company organized and existing under the laws of California and having its
 25 principal place of business in this judicial district. On information and belief, TS intentionally
 26 and purposefully negotiated and contracted for rights related to the '526 patent in California with
 27 and through Acacia Patent Acquisition LLC and Acacia Research Corporation.

28 12. On information and belief, TS has taken intentional and purposeful steps to

1 enforce the '526 patent against residents of this judicial district, including by suing Cisco
2 customers with principal places of business or operations in this judicial district for infringement
3 of the '526 patent and seeking to enjoin these entities, their agents, officers, servants, employees,
4 attorneys and all persons in active concert or participation with them from further infringement of
5 the '526 patent. TS's efforts to enforce the '526 patent and enjoin these entities also adversely
6 and foreseeably impact Cisco, a resident of this judicial district, as described further above.

7 13. On information and belief, TS is an agent and alter ego of Acacia Patent
8 Acquisition LLC and Acacia Research Corporation (collectively "Acacia"), both of which have
9 principal places of business in California. According to its website, Acacia Research Corporation
10 controls over 100 patent portfolios covering technologies used in a wide variety of industries and
11 its subsidiaries develop, acquire, and license patented technologies. On information and belief,
12 Acacia is in the business of monetizing patents and its standard business model is to create shell
13 entities such as TS to hold different patent assets to assert against operating entities. On
14 information and belief, Acacia causes these shell entities to be created in different locations in an
15 attempt to generate jurisdiction in its chosen location and to avoid jurisdiction in other locations.
16 On information and belief, TS acts as an agent of Acacia because, among other things, Acacia
17 acquired a purported exclusive license to the '526 patent by and through TS and was responsible
18 for making payments relating to the '526 patent, to the extent any such payments were made, to
19 Margalla for the purported exclusive license granted to TS. On information and belief, TS acts as
20 an agent of Acacia because Acacia has sought to enforce, monetize and/or license the '526 patent
21 by and through TS. TS is also an alter ego of Acacia because, among other things, TS is a mere
22 instrumentality of Acacia for the acquisition, enforcement, monetization and/or licensing of the
23 '526 patent, and individuals acting on behalf of TS for the acquisition, enforcement, monetization
24 and/or licensing of the '526 patent are engaged or employed by Acacia and acting on Acacia's
25 behalf. On information and belief, TS's relationship as agent and alter ego of Acacia is consistent
26 with Acacia's standard business model for monetizing patents through the formation of
27 subsidiaries for litigation with a lack of respect for corporate formalities, which has been
28 recognized in past federal court litigation involving Acacia's subsidiaries.

15. On information and belief, Acacia is subject to general personal jurisdiction in this judicial district in light of its substantial, continuous, and systematic contacts with California. Acacia's principal place of business is in California. Acacia purposefully, systematically and continuously directs activities in California and this judicial district, including by initiating litigation in federal district courts in California; licensing patents to residents of this judicial district; participating in and hosting exhibiting booths at conferences in this judicial district; and soliciting inventors to assign or license patents to Acacia to monetize those patent through licensing or litigation in this judicial district through its website.

16. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claims at issue occurred in this judicial district, and because the Defendants are subject to personal jurisdiction within this judicial district.

17. Cisco hereby restates and realleges the allegations set forth in paragraphs 1 through 16 above and incorporates them by reference.

18. On information and belief, Margalla is the named assignee of the '526 patent and TS purports to be the exclusive licensee of the '526 patent with rights to enforce the patent and sue infringers. A true and correct copy of the '526 patent is attached hereto as Exhibit B.

19. No claim of the '526 patent has been or is infringed, either directly or indirectly, contributorily or otherwise, by Cisco or its customers through their activities in conjunction with Cisco's TelePresence products.

20. The claims of the '526 patent are invalid for failure to comply with the requirements of the Patent Laws of the United States, including but not limited to the provisions of 35 U.S.C. §§ 101, 102, 103, and/or 112.

21. As set forth above, an actual controversy exists between Cisco and Defendants as to infringement and invalidity of the '526 patent. Cisco desires a judicial determination and declaration of the respective rights and duties of the parties herein. Such a determination and declaration is necessary and appropriate at this time in order that the parties may ascertain their respective rights and duties and for the reasons set forth above.

PRAYER FOR RELIEF

WHEREFORE, Cisco prays for the following relief:

A. A declaration that Cisco and its customers have not infringed and are not infringing, directly, indirectly or otherwise, any claim of the '526 patent;

B. A declaration that each claim of the '526 patent is invalid;

C. An order that Defendants and each of their officers, employees, agents, alter egos, attorneys, and any persons in active concert or participation with them are restrained and enjoined from further prosecuting or instituting any action against Cisco or Cisco's customers claiming that the '526 patent is valid, enforceable, or infringed, or from representing that Cisco's products or services, or that others' use thereof, infringe the '526 patent;

D. A declaration that this case is exceptional under 35 U.S.C. § 285 and awarding Cisco its attorneys' fees and costs in connection with this case;

E. Such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Cisco demands a trial by jury on all issues so triable.

Dated: April 8, 2009

WEIL, GOTSHAL & MANGES LLP

By: Edward Reines / AF by permission
Edward R. Reines
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CISCO SYSTEMS, INC.